

vessels subject to the jurisdiction of the United States.

**§ 300.211 Definitions.**

In addition to the terms defined in § 300.2 and those in the Act and in the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes (WCPF Convention), which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High-Level Conference on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, the terms used in this subpart have the following meanings.

*Aggregate or summary form* means information structured in such a way which does not directly or indirectly disclose the identity or business of any person who submits such information.

*1982 Convention* means the United Nations Convention on the Law of the Sea of 10 December 1982.

*Commercial*, with respect to commercial fishing, means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

*Commission* means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with the WCPF Convention, including its employees and contractors.

*Confidential information* means any observer information or any information submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission by any person in compliance with any requirement or regulation under the Act or under the Magnuson-Stevens Fishery Conservation and Management Act.

*Conservation and management measure* means those conservation and management measures adopted by the Commission pursuant to Article 10 of the WCPF Convention.

*Convention Area* means all waters of the Pacific Ocean bounded to the south and to the east by the following line: From the south coast of Australia due south along the 141st meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of

south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

*Cooperating Non-Member* means a non-Member of the Commission that has been accorded Cooperating Non-Member status by the Commission at the Commission's most recent annual meeting.

*Eastern High Seas Special Management Area* means the area of the high seas within the area bounded by the four lines connecting, in the most direct fashion, the coordinates specified as follows: 11° S. latitude and 161° W. longitude; 11° S. latitude and 154° W. longitude; 16° S. latitude and 154° W. longitude; and 16° S. latitude and 161° W. longitude.

*Effort Limit Area for Purse Seine*, or *ELAPS*, means, within the area between 20° N. latitude and 20° S. latitude, areas within the Convention Area that either are high seas or within the EEZ.

*Fish aggregating device*, or *FAD*, means any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel.

*Fishing* means using any vessel, vehicle, aircraft or hovercraft for any of the following activities, or attempting to do so:

- (1) Searching for, catching, taking, or harvesting fish;
- (2) Engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;

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(3) Placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(4) Engaging in any operations at sea directly in support of, or in preparation for, any of the activities previously described in paragraphs (1) through (3) of this definition, including, but not limited to, bunkering;

(5) Engaging in transshipment at sea, either unloading or loading fish.

*Fishing day* means, for the purpose of § 300.223, any day in which a fishing vessel of the United States equipped with purse seine gear searches for fish, deploys a FAD, services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch.

*Fishing trip* means a period that a fishing vessel spends at sea between port visits and during which any fishing occurs.

*Fishing vessel* means any vessel used or intended for use for the purpose of fishing, including bunkering and other support vessels, carrier vessels and other vessels that unload or load fish in a transshipment, and any other vessel directly involved in fishing.

*Hawaiian Archipelago* means the Main and Northwestern Hawaiian Islands, including Midway Atoll.

*High seas* means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

*Highly migratory species (or HMS)* means any of the following species:

| Common name                 | Scientific name   |
|-----------------------------|---|
| Albacore .....              | <i>Thunnus alalunga</i> .   |
| Pacific bluefin tuna .....  | <i>Thunnus orientalis</i> .   |
| Southern bluefin tuna ..... | <i>Thunnus maccoyii</i> .   |
| Bigeye tuna .....           | <i>Thunnus obesus</i> .   |
| Skipjack tuna .....         | <i>Katsuwonus pelamis</i> .   |
| Yellowfin tuna .....        | <i>Thunnus albacares</i> .  |
| Little tuna .....           | <i>Euthynnus affinis</i> .  |
| Frigate mackerel ....       | <i>Auxis thazard</i> ; <i>Auxis rochei</i> .  |
| Pomfrets .....              | Family Bramidae.  |
| Marlins .....               | <i>Tetrapturus angustirostris</i> ; <i>Tetrapturus audax</i> ; <i>Makaira mazara</i> ; <i>Makaira indica</i> ; <i>Makaira nigricans</i> . |
| Sail-fishes .....           | <i>Istiophorus platypterus</i> .  |
| Swordfish .....             | <i>Xiphias gladius</i> .  |
| Dolphinfish .....           | <i>Coryphaena hippurus</i> ; <i>Coryphaena equiselis</i> .  |

| Common name          | Scientific name  |
|----------------------|--|
| Oceanic sharks ..... | <i>Hexanchus griseus</i> ; <i>Cetorhinus maximus</i> ; Family Alopiidae; <i>Rhincodon typus</i> ; Family Carcharhinidae; Family Sphyrnidae; Family Isuridae (or Lamnidae). |

*High seas fishing permit* means a permit issued under § 300.13.

*Longline gear* means a type of fishing gear consisting of a main line that exceeds 1 nautical mile in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone, longline gear means a type of fishing gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached, where "protected species zone" is used as defined at § 665.12 of this title.

*Marine Fisheries Commission* means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific States Marine Fisheries Commission.

*Member of the Commission* means any Contracting Party to the WCPF Convention, and, unless otherwise stated in context, any territory that has been authorized by an appropriate Contracting Party to participate in the Commission and its subsidiary bodies pursuant to Article 43 of the WCPF Convention and any fishing entity that has agreed to be bound by the regime established by the WCPF Convention pursuant to Annex I of the WCPF Convention.

*Net sharing* means the transfer of fish that have not yet been loaded on board any fishing vessel from the purse seine net of one vessel to another fishing vessel. Fish shall be considered to be on board a fishing vessel once they are on a deck or in a hold, or once they are first lifted out of the water by the vessel.

*NOAA* means the National Oceanic and Atmospheric Administration, Department of Commerce.

*Observer employer/observer provider* means any person that provides observers to fishing vessels, shoreside processors, or stationary floating processors under a requirement of the Act or the Magnuson-Stevens Fishery Conservation and Management Act.

*Observer information* means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.

*Pacific Islands Regional Administrator* means the Regional Administrator, Pacific Islands Region, NMFS, or a designee (1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814).

*Person* means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

*Purse seine* means a floated and weighted encircling net that is closed by means of a drawstring threaded through rings attached to the bottom of the net.

*Special Agent-In-Charge (or SAC)* means the Special-Agent-In-Charge, NOAA Office of Law Enforcement, Pacific Islands Division, or a designee (1601 Kapiolani Blvd., Suite 950, Honolulu, HI 96814; tel: (808) 203-2500; facsimile: (808) 203-2599; e-mail: [pidvms@noaa.gov](mailto:pidvms@noaa.gov)).

*State* means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

*Transshipment* means the unloading of fish from on board one fishing vessel and its direct transfer to, and loading on board, another fishing vessel, either

at sea or in port. Fish shall be considered to be on board a fishing vessel once they are on a deck or in a hold, or once they are first lifted out of the water by the vessel. Net sharing is not a transshipment.

*Vessel monitoring system (or VMS)* means an automated, remote system that provides information about a vessel's identity, location and activity, for the purposes of routine monitoring, control, surveillance and enforcement of area and time restrictions and other fishery management measures.

*VMS unit*, sometimes known as a "mobile transmitting unit," means a transceiver or communications device, including all hardware and software, that is carried and operated on a vessel as part of a VMS.

*WCPFC Area Endorsement* means the authorization issued by NMFS under §300.212, supplementary to a valid high seas fishing permit and expressed as an endorsement to such permit, for a fishing vessel used for commercial fishing for highly migratory species on the high seas in the Convention Area.

*WCPF Convention* means the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force, for the United States) that was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High-Level Conference on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

*WCPFC observer* means a person authorized by the Commission in accordance with any procedures established by the Commission to undertake vessel observer duties as part of the Commission's Regional Observer Programme, including an observer deployed as part of a NMFS-administered observer program or as part of another national or sub-regional observer program, provided that such program is authorized by the Commission to be part of the Commission's Regional Observer Programme.

*WCPFC inspection vessel* means any vessel that is:

(1) Authorized by a member of the Commission to be used to undertake

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boarding and inspection of fishing vessels on the high seas pursuant to, and in accordance with, Article 26 of the WCPFC Convention and procedures established by the Commission pursuant thereto;

(2) Included in the Commission's register of authorized inspection vessels and authorities or inspectors, established by the Commission in procedures pursuant to Article 26 of the WCPFC Convention; and

(3) Flying the WCPFC inspection flag established by the Commission.

*WCPFC inspector* means a person that is authorized by a member of the Commission to undertake boarding and inspection of fishing vessels on the high seas pursuant to, and in accordance with, the boarding and inspection procedures adopted by the Commission under Article 26 of the WCPFC Convention, and referred to therein as a "duly authorized inspector" or "authorized inspector."

*WCPFC Interim Register of Non-Member Carrier and Bunker Vessels* means, for the purposes of this subpart, the WCPFC Interim Register of non-Member Carrier and Bunker Vessels as established in the decisions of the WCPFC and maintained on the WCPFC's Web site at <http://www.wcpfc.int/>.

*WCPFC Record of Fishing Vessels* means, for the purposes of this subpart, the WCPFC Record of Fishing Vessels as established in the decisions of the WCPFC and maintained on the WCPFC's Web site at <http://www.wcpfc.int/>.

*WCPFC transshipment monitor* means, with respect to transshipments that take place on the high seas, a person authorized by the Commission to conduct transshipment monitoring on the high seas, and with respect to transshipments that take place in areas under the jurisdiction of a member of the Commission other than the United States, a person authorized by such member of the Commission to conduct transshipment monitoring.

[72 FR 18405, Apr. 12, 2007, as amended at 74 FR 64010, Dec. 7, 2009; 75 FR 3347, Jan. 21, 2010; 77 FR 71509, Dec. 3, 2012; 78 FR 30778, May 23, 2013]

### § 300.212 Vessel permit endorsements.

(a) Any fishing vessel of the United States used for commercial fishing for HMS on the high seas in the Convention Area must have on board a valid high seas fishing permit, or a copy thereof, that has a valid WCPFC Area Endorsement, or a copy thereof.

(b) *Eligibility.* Only a fishing vessel that has a valid high seas fishing permit is eligible to receive a WCPFC Area Endorsement.

(c) *Application.* (1) A WCPFC Area Endorsement may be applied for at the same time the underlying high seas permit is applied for, or at any time thereafter.

(2) The owner or operator of a high seas fishing vessel may apply for a WCPFC Area Endorsement by completing an application form, available from the Pacific Islands Regional Administrator, and submitting the complete and accurate application, signed by the applicant, to the Pacific Islands Regional Administrator, along with the required fees.

(3) The application must be accompanied by a bow-to-stern side-view photograph of the vessel in its current form and appearance. The photograph must meet the specifications prescribed on the application form and clearly show that the vessel is marked in accordance with the vessel identification requirements of § 300.217.

(d) *Fees.* NMFS will charge a fee to recover the administrative expenses of issuance of a WCPFC Area Endorsement. The amount of the fee will be determined in accordance with the procedures of the NOAA Finance Handbook, available from the Pacific Islands Regional Administrator, for determining administrative costs of each special product or service. The fee is specified in the application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the WCPFC Area Endorsement. Payment by a commercial instrument later determined to be insufficiently funded is grounds for invalidating the WCPFC Area Endorsement.

(e) *Issuance.* (1) The Pacific Islands Regional Administrator will issue a WCPFC Area Endorsement within 30